

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

UNITED STATES OF AMERICA	§	
	§	
VS.	§	NO. 3-02-CR-0049-D
	§	NO. 3-06-CV-1206-D
NALINI SANDHU	§	
	§	
Defendant.	§	

**FINDINGS AND RECOMMENDATION OF THE  
UNITED STATES MAGISTRATE JUDGE**

In a letter to the court dated August 12, 2006, Defendant Nalini Sandhu, appearing *pro se*, advises that she wishes to withdraw her motion for post-conviction relief. The court treats the letter as a motion to dismiss.

Fed. R. Civ. P. 41(a)(1) provides that a party who initiates an action may obtain dismissal without a court order "by filing a notice of dismissal at any time before service by the adverse party of an answer or of a motion for summary judgment, whichever first occurs . . ." FED. R. CIV. P. 41(a)(1). The government has not yet served an answer or a motion for summary judgment in this section 2255 case. Consequently, defendant is entitled to a dismissal without prejudice.


**RECOMMENDATION**

Defendant's motion to dismiss [Doc. #80] should be granted. This case should be dismissed without prejudice pursuant to Fed. R. Civ. P. 41(a)(1).

A copy of this report and recommendation shall be served on all parties in the manner provided by law. Any party may file written objections to the recommendation within 10 days after being served with a copy. *See* 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72(b). The failure to file written objections will bar the aggrieved party from appealing the factual findings and legal

conclusions of the magistrate judge that are accepted or adopted by the district court, except upon grounds of plain error. *See Douglass v. United Services Automobile Ass'n*, 79 F.3d 1415, 1417 (5th Cir. 1996).

DATED: August 18, 2006.



JEFF KAPLAN  
UNITED STATES MAGISTRATE JUDGE